

N.D.A.G. Letter to McLean (Jan. 27, 1986)

January 27, 1986

Mr. Stephen M. McLean, Ltd.
City Attorney
City of Oakes
Oakes, ND 58474

Dear Mr. McLean:

Thank you for your letter of January 9, 1986, inquiring as to whether a police ticket book is subject to the open records law of this state.

The 1979 Attorney General's opinion discussed in your letter continues to be the standard by which the determination is made whether a law enforcement record is subject to public disclosure pursuant to the open records law of this state. This opinion sought to balance the public policy regarding the public's general right to know public information with the public policy which favors the state's efficient operation of law enforcement agencies which is necessary and vital for the protection of the health and welfare of its citizens.

In performing this balancing act, the opinion concluded that the public disclosure of a particular law enforcement document depended upon the information contained within the document. For example, reports indicating the offense committed, where it was committed, the complainants and time of the occurrence, vehicles involved, and other specific details concerning the offense in question were held to be a document subject to the open records law. However, information concerning the personal history and criminal activities of certain individuals should not be subject to the open records law due to possible inaccuracies and incomplete entries in such records. Finally, the opinion concluded that where records contained a mixture of confidential and non-confidential information, law enforcement officials must make every effort to make available upon request for public use the non-confidential information.

In applying this opinion to the facts involving the Oakes Police Department ticket book, we are without specific information needed to determine whether or not the information contained within the ticket book may be withheld from the public. Obviously, if the information contains facts which are described in the "offense report" document named in the 1979 opinion, such information must be made available for public disclosure. On the other hand, if there are facts within the ticket book which would fit the description of "personal history and arrest records" as described in this 1979 opinion, such information should not be disclosed to the public. Where there is a mixture of such information, every effort should be made to disclose the non-confidential information.

I assume that the police department ticket book contains uniform traffic complainant and summons forms as provided for in N.D.C.C. §29-05-31. This form relates the basic

conditions surrounding the alleged violation of law committed by the defendant. The information contained on this form would be considered information found in the "offense report" and "police blotter" as those terms are used in the 1979 opinion. Therefore, it would be my opinion that such information is not confidential and must be released to the public upon request.

Sincerely,

Nicholas J. Spaeth

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